# IN THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF TEXAS

HANOVER INSURANCE COMPANY A/S/O
GLEN ROSE TRANSPORTATION

MANAGEMENT, INC. : CIVIL ACTION

440 LINCOLN STREET

WORCESTER, MA 01653 : CASE NO:

Plaintiff

v.

DALTEX FREIGHTERS, LLC

13999 GOLDMARK DRIVE, SUITE #145 : COMPLAINT

DALLAS, TX 75240

Defendants

iluants

### **COMPLAINT**

Plaintiff, by and through its attorney, brings this Civil Action and by way of this Complaint against Defendant avers as follows:

### **PARTIES**

- 1. Plaintiff is an insurance company with a principal place of business at 440 LINCOLN STREET, WORCESTER, MA 01653.
- 2. Upon information and belief, Defendant is a Texas limited liability company with a principal place of business at 13999 GOLDMARK DRIVE, STE. #145, DALLAS, TX 75240.
- 3. Upon information and belief, at all times relevant and material hereto, Defendant was a trucking company.

## **JURISDICTION AND VENUE**

- 4. This action is brought pursuant to the Carmack Amendment (49 U.S.C. §14706).
- 5. The amount in controversy exceeds \$10,000.00.
- 6. Therefore, jurisdiction is vested with this Court under 28 U.S.C. § 1337.
- 7. This Court can exercise personal jurisdiction over Defendant because, upon information and belief, Defendant is a citizen of Texas.

8. Pursuant to 28 U.S.C. § 1391, venue is proper within this judicial District because a substantial part of the events giving rise to the claim occurred in this judicial District.

#### **GENERAL ALLEGATIONS**

- 9. Prior to August 23, 2018, Plaintiff issued a contingent motor truck cargo policy of insurance to Glen Rose Transportation Management, Inc. ("Glen Rose"), a freight broker located in Glen Rose, Somervell County, TX.
- 10. Prior to August 23, 2018, Glen Rose, in its capacity as a freight broker, hired Defendant, a trucking company, to transport a load of food products ("Cargo") from Saginaw, TX to St. Louis, MO.
- 11. Upon information and belief, the transaction described in the immediately preceding paragraph took place in this judicial District.
- 12. The Cargo was picked up by Defendant and Defendant proceeded to deliver the Cargo, but the Cargo arrived in damaged condition because Defendant's refrigerated trailer did not maintain the temperature necessary for transporting the subject Cargo.
- 13. Upon information and belief, at all times relevant and material hereto, the Cargo was in Defendant's exclusive possession and control.
- 14. Upon information and belief, the Cargo was delivered to Defendant in good condition.
- 15. Because of the loss of the Cargo, Glen Rose and the owner of the Cargo suffered damage in excess of \$38,213.50.
- 16. Plaintiff, pursuant to the terms of the insurance policy issued to Glen Rose, made payments to Glen Rose and/or the owner of the Cargo on account of said loss in the amount of \$38,213.50.

2

Case 6:20-cv-00768-ADA-JCM Document 1 Filed 08/24/20 Page 3 of 3

17. By virtue of the aforesaid payments, pursuant to the aforesaid insurance policy,

and by operation of law, Plaintiff is subrogated to the rights of Glen Rose with regard to said

damage and incident.

COUNT I - CLAIM PURSUANT TO CARMACK AMENDMENT (49 U.S.C. §14706)

18. Plaintiff incorporates herein by reference all previous paragraphs in their entirety.

19. At all times relevant and material hereto, Defendant was engaged in the interstate

commerce.

20. At all times relevant and material hereto, Defendant was a "carrier" within the

meaning of the Carmack Amendment (49 U.S.C. §14706).

21. Therefore, pursuant to the Carmack Amendment (49 U.S.C. §14706), Defendant

is liable for the damaged Cargo.

WHEREFORE, Plaintiff, as subrogee of Glen Rose, demands judgment in its favor and

against Defendant in the amount of \$38,213.50, together with interests, costs of suit, and any

other relief this Honorable Court deems just and proper.

RESPECTFULLY SUBMITTED,

Dated: 8/24/20

Vlad Kushnir, Esq. (Bar # 90571)

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3